

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0185P

USE TAX

Calendar Years 1997 and 1998

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated under the laws of Michigan, was audited for calendar years 1997 and 1998. Upon audit it was discovered that the taxpayer failed to remit use tax due and filed "zero" ST103 returns although it had taxable purchases. In a prior audit dated October 7, 1993 taxpayer requested a waiver of the negligence penalty

Taxpayer had no use tax accrual system in place.

In a letter dated April 3, 2000, taxpayer protested penalties assessed and states it does not have a past pattern of behavior from which the Department could extrapolate negligence or willful neglect and that is has never been late with any tax payment to the Department.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for all years of the audit because it failed report taxable purchases subject to use tax. Taxpayer filed "zero" on its ST-103 returns and remitted no sales or use tax. Taxpayer had a previous audit completed in 1993 upon which the Department waived the penalty.

Taxpayer requests the penalties be abated because it does not have a past pattern of behavior from which the Department could extrapolate negligence.

Taxpayer did not make corrections based upon a prior audit. It did not pay sales nor use taxes and has not provided reasonable cause. Taxpayer failed to make corrections based upon a prior audit, which is considered negligent.

FINDING

Taxpayer's protest is denied.